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OFFICE OF PETITIONS

In re Application of :
Noriyuki Miura : DECISION ON PETITION
Application Number: 10/690579 : TO WITHDRAW HOLDING OF
Filing Date: 10/23/2003 : ABANDONMENT
Attorney Docket Number: MAE 296 :

This is a decision on the petition, filed on 22 June, 2007, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to timely reply to the non-final Office action mailed on 4 October, 2006, which set a three (3) month shortened statutory period for reply. No response having been received, Notice of Abandonment was mailed on 19 June, 2007.

Petitioners assert that a timely and proper response was in fact filed on 22 December, 2006. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of an amendment in the United States Patent and Trademark Office (Office) on 22 December, 2006. Additionally, petitioners have submitted a copy of the previously-filed amendment with the present petition.

Petitioners' response to the non-final Office action mailed on 4 October, 2006, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the non-final Office action was received in the Office but was not matched with the application file.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

A handwritten signature in cursive script, appearing to read "D Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions